Franchise Tax Board

SUMMARY ANALYSIS OF AMENDED BILL

Author:	AR&T Committee	Analyst:	William Koch	Bill Number:	AB 1546
Related Bills:	See Prior Analysis	Telephone:	845-4372	Amended Date:	May 14, 2009
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Limited Partnership Revival-Account Fees, Tax Returns, And Expedited Service Fees/ Estimated Tax Percentages-Annualized Income Installment Method

____ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended __________________.

_X_ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

____ AMENDMENTS DID NOT RESOLVE THE DEPARTMENTS CONCERNS stated in the previous analysis of bill as introduced/amended ____________________.

____ FURTHER AMENDMENTS NECESSARY.

____ DEPARTMENT POSITION CHANGED TO ____________________.

_X_ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED March 5, 2009, STILL APPLIES.

_X_ OTHER – See comments below.

SUMMARY

This bill would do the following:

1. Require a canceled domestic limited partnership (LP) to pay outstanding fees, file missing tax returns, and pay a service fee for expedited revival requests, in addition to the current requirements to revive.
2. Clarify the estimated tax payment percentages used under the annualized income installment method.

SUMMARY OF AMENDMENTS

The provisions of this bill, as introduced March 5, 2009, affecting LPs, are unchanged by the May 14, 2009, amendments.

The May 14, 2009, amendments added language to the bill that would clarify the estimated tax payment percentages used under the annualized income installment method.

The department's analysis of this bill as introduced March 5, 2009, relating to LPs, still applies.

Board Position:			Legislative Director	Date
____ S	____ NA	____ NP		
____ SA	____ O	____ NAR	Brian Putler	5/28/09
____ N	____ OUA	_X_ PENDING		

ECONOMIC IMPACT – SUMMARY REVENUE TABLES

Estimated Revenue Impact of AB 1546 Enactment Assumed After June 30, 2009				
	2009-10	2010-11	2011-12	2012-13
Limited Partnership Revival Provision	+<$1,000	+$1,000	+$1,000	+$1,000
Annualized Income Installment Method Provision	+$60 Million	+$12 Million	+$2 Million	+$8 Million
Total	**$60,001,000**	**$12,001,000**	**$2,001,000**	**$8,001,000**

<u>Annualized Income Installment Method Provision</u>

EFFECTIVE/OPERATIVE DATE

This provision would be effective January 1, 2010, and specifically operative for estimated tax payments due for each taxable year beginning on or after January 1, 2009.

POSITION

Pending.

ANALYSIS

<u>STATE LAW</u>

In general, prior California law required individual and corporate taxpayers to remit four estimated tax payments each equal to 25 percent of their required annual payment. Newly enacted state law, SBX1 28 (Senate Committee on Budget, Stats. 2008, First Extraordinary Session, Ch. 1), changed the required applicable percentages so that the estimated tax payments for taxable years beginning on or after January 1, 2009, is now 30 percent, 30 percent, 20 percent, and 20 percent for the 1st, 2nd, 3rd, and 4th quarter installments, respectively.

Current state law requires the “annual payment” for an individual to be the lesser of the following:

- Option 1: 90 percent of the tax shown on the return for the taxable year, or
- Option 2: 100 percent of the tax shown on the return for the preceding taxable year.

In addition, current state law requires the annual payment under option 2 to be increased from 100 percent to 110 percent of the tax shown on the return if the adjusted gross income (AGI) of the taxpayer for the preceding taxable year exceeds $150,000 ($75,000 in the case of a married individual filing a separate return). SBX1 28 (Senate Committee on Budget, Stats. 2008, First Extraordinary Session, Ch. 1) modified the options above to additionally provide that a taxpayer with AGI equal to or greater than $1 million ($500,000 in the case of a married individual filing a separate return) may not use option 2 for taxable years beginning on or after January 1, 2009.

Under existing state law and unchanged by SBX1 28 (Senate Committee on Budget, Stats. 2008, First Extraordinary Session, Ch. 1), the annualized income installment method allows a taxpayer to calculate the required estimated tax payment based on an estimate of income, deductions and credits attributable to each installment period[1]. The computation of estimated tax payments under the annualized income installment method requires the annualized tax due for each installment period to be multiplied by an increasing percentage of 22.5 percent, 45 percent, 67.5 percent, and 90 percent. The percentages used in the calculation equate to 25 percent, 50 percent, 75 percent, and 100 percent of the required annual payment under Option 1.

Generally, a taxpayer is subject to a penalty for any underpayment of estimated tax. The penalty is an amount equal to the underpayment rate multiplied by the amount of the underpayment. The underpayment rate is the same as the interest rate charged for tax delinquencies, currently 5 percent. The penalty is calculated by comparing the required amount for each estimated tax payment, determined under either the regular method (formerly 25 percent, 25 percent, 25 percent, 25 percent, now 30 percent, 30 percent, 20 percent, 20 percent) or the annualized income installment method, with the amount paid by the due date of that installment.

THIS PROVISION

This provision would revise the percentages used to determine estimated tax payment requirements under the annualized income installment method to percentages consistent with recently enacted law. The percentages would be 27 percent, 54 percent, 72 percent, and 90 percent. These percentages equate to 30 percent, 60 percent, 80 percent, and 100 percent of the required annual payment --90 percent of the tax shown on the return for the taxable year.

IMPLEMENTATION CONSIDERATIONS

Implementing this provision would occur during the department's normal annual update.

TECHNICAL CONSIDERATIONS

This provision, as well as provisions in AB 1580 (AR&T Committee, 2009/2010) would make amendments to code sections pertaining to estimated tax payments. Double jointing language may be necessary to ensure both bills are technically compatible.

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[1] A taxpayer whose income fluctuates throughout the year may have a lower required installment using the annualized income installment method.

LEGISLATIVE HISTORY

AB 1580 (AR&T Committee, 2009/2010) contained provisions identical to the May 14, 2009, amendments to this bill that would have aligned the estimated tax payment percentages used under the annualized income installment method with the estimated tax percentages revised by recently enacted law. These provisions were amended out of AB 1580 on May 14, 2009. Provisions pertaining to the application of wage withholding and estimated tax payments remain in AB 1580.

SBX1 28 (Senate Committee on Budget, Stats. 2008, First Extraordinary Session, Ch. 1) changed the required estimated tax payment percentages to 30 percent, 30 percent, 20 percent, and 20 percent for the 1st, 2nd, 3rd, and 4th quarter installments, respectively.

OTHER STATES' INFORMATION

Because this provision would modify estimated tax payment percentages unique to California, a comparison of other states is unnecessary.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

This provision would result in the following revenue gains:

Estimated Revenue Impact of Annualized Income Installment Method - AB 1546 Assumed Effective For Tax Years Beginning On or After January 1, 2009 Enactment after June 30, 2009				
	2009-10	2010-11	2011-12	2012-13
Modify Percentages for the Annualized Income Installment Method	+$60 Million	+$12 Million	+$2 Million	+$8 Million

This estimate does not consider the possible changes in employment, personal income, or gross state product that could result from this provision.

Revenue Discussion

This provision modifies the percentages used to determine estimated tax payment requirements under the annualized income installment method to be consistent with the required percentages in newly enacted law. The revenue impact of this provision depends on the number of taxpayers that would avail themselves of the annualized income installment method and the amount of their estimated payments.

The impact of this provision would be the increase in the first two estimated payments for 2010. Assuming that ten percent of Personal Income Tax (PIT) estimated payments are made using the annualized income installment method, approximately $400 million ($4 billion x 10%) in PIT estimated payments in April and June of 2010 would be expected to be made using this method under current law. It is assumed that if all of these estimated payments were adjusted to meet the new percentages under this proposal, the payments would increase from approximately $400 million to approximately $480 million ($400 million x 30%/25%). It is assumed that in 2010, approximately 75 percent of taxpayers using the annualized income installment method would increase their estimated tax payment from 25 percent to 30 percent of the annual payment required under newly enacted law. The amount of revenue that would be accelerated into 2009/10 would be approximately $60 million [75% compliance x ($480 million estimated payments under full compliance with this new provision - $400 million estimated payments under current law)]. Similar calculations were performed for fiscal years 2010/11 and 2011/12.

LEGISLATIVE STAFF CONTACT

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